

105 CMR 590.000/*Food Code* Comparison Guide

Sections of the 1999 Food Code (FC), which have been modified, are identified in the far-left column. An explanation of the changes is provided in the second column. An **X** in the deletion column means that the provision of the Food Code was stricken and replaced by a provision in 105 CMR 590.000. That section is referenced in the far right column. If the deletion column is empty, it means that the new provision is either in addition to the Food Code provision or that no equivalent provision exists in the Food Code.

SUBSTANTIVE PROVISIONS

590.001 Adoption of Federal Edition of the “Food Code”

590.002 Purpose and Definitions

Food Code Chapter 1	Purpose and Definitions	Deletion	Addition
1-2	Definitions		
1-201.10(B)(3)	<i>Adulterated</i> replaced with “Adulterated” as defined in M.G.L c. 94, s.186 .	X	590.002
	<i>Bed and Breakfast Establishment</i> 590 definition added for special requirement purposes.		590.002
	<i>Bed and Breakfast Home</i> 590 definition added for special requirement purposes.		590.002
	<i>Board of Health</i> 590 definition added.		590.002
1-201.10(B)(7)	<i>Bottled Drinking Water</i> modified to include Massachusetts definition in 105 CMR 570 Bottled Water Regulations.	X	590.002
	<i>Business Days</i> 590 definition added.		590.002
	<i>Caterer</i> 590 definition added for special requirement purposes.		590.002
	<i>Commissioner</i> 590 definition added for Massachusetts Department of Public Health (MDPH) Commissioner.		590.002
	<i>Continental Breakfast</i> 590 definition added for bed and breakfast requirements.		590.002
1-201.10(B)(17)	<i>Critical Item</i> 590 definition added to the FC definition.		590.002
	<i>DEP</i> (Department of Environmental Protection) 590 definition added.		590.002
	<i>Department</i> 590 definition added for MDPH.		590.002
	<i>Director</i> 590 definition added for Director of Division of Food and Drugs (DFD).		590.002
1-201.10(B)(19)(a)	<i>Drinking Water</i> section of definition replaced with 590 definition to mean water that meets 310 CMR 22.00 Massachusetts Drinking Water Regulations.	X	590.002
	<i>Food Code Interventions</i> definition added.		590.002
1-201.10(B)(30)	<i>Food Employee</i> definition modified to include definition in 105 CMR 300.000.		590.002
1-201.10(B)(31)	<i>Food Establishment</i> definition replaced with modified FC definition to include residential kitchens for retail sale, retail bakeries and bed and breakfast homes and establishments. Kitchens in private homes that prepare food for donation to non-profit organizations and bed and breakfast homes, which prepare only continental breakfasts, exempt from licensure. The Food Code exemption for food establishments, which sell only pre-packaged non-PHF, removed. Requirement for consumer notices at bake sales and in residential kitchens removed.	X	590.002
1-201.10(B)(32)	<i>Food Processing Plant</i> definition modified to include food processing operation definition in 105 CMR 500.000 Good Manufacturing Practices.	X	590.002
	<i>Full Breakfast</i> 590 definition added for bed and breakfast requirements.		590.002
	<i>Misbranded Food</i> 590 definition added.		590.002
	<i>Regulatory Authority</i> modified to include board of health.		590.002
	<i>Residential Kitchen</i> 590 definition added for special requirements.		590.002
	<i>Risk Factors</i> definition added.		590.002

* Denotes critical item

590.003 Management and Personnel

Food Code Chapter 2	Management and Personnel	Deletion	Addition
2-1	Supervision		
2-101.11*	Assignment* First paragraph modified to include food protection management certification for person in charge (PIC) and exemptions.	X	590.003(A)
2-102.11*	Demonstration* First paragraph modified to delete demonstration of knowledge by properly responding to the inspector's questions as they relate to the specific food operation.	X	590.003(B)
2-2	Employee Health		
2-201.11(A)*	Health Status. List of infectious agents modified to be consistent with 105 CMR 300.000. Regulations Governing Reportable Illnesses.	X	590.003(C)
2-201.12(A)-(D)*	Exclusions and Restrictions. Excluding any employees diagnosed with <i>S. Typhi</i> , <i>Shigella</i> spp., <i>E. coli</i> O157:H7, or hepatitis A virus .	X	590.003(D)(1)
2-201.12(B)*	Restricting general population employees who are symptomatic or are diagnosed with any other infectious agent specified in 590.003.		590.003(D)(2)
2-201.12(C)*	Excluding employees serving highly susceptible populations if those employees are asymptomatic but have been diagnosed with an infectious agent identified in 105 CMR 300.000.		590.003(D)(3)
2-201.12(D)*	Excluding and restricting jaundiced employees.		590.003(D)(4)
2-201.13	Removal of Exclusions and Restrictions.- Modified to require board of health approval and written medical documentation that specifies that the person is free of the infectious agent of concern as specified in 590.017 and 105 CMR 300.000.	X	590.003(E)
2-201.14*	Responsibility of the Food Employee or an Applicant to Report to the Person in Charge. Modified to cross-reference above sections.	X	590.003(F)
2-201.15*	Reporting by the Person in Charge. Modified to cross-reference above sections.	X	590.003(G)
2-3	Personal Cleanliness		
2-4	Hygienic Practices		

590.004 Food

Food Code Chapter 3	Food	Deletion	Addition
3-1	Characteristics		
3-201.11(B)*	Food Prepared in a Private Home. Prohibited except as provided in 590.000 definition of food establishment.	X	590.004(A)
3-201.11(C)*	Packaged Food Labeling. Must comply with all applicable laws.	X	590.004(B)
3-201.16(A)*	Wild Mushrooms. Food code permits mushroom inspected by an approved mushroom identification expert. Modified to prohibit sale or use of unregulated wild mushrooms unless found to be safe by an approved mushroom expert and the mushrooms are packaged and labeled appropriately.		590.004(C)
3-202.14(C) *	Frozen Milk Products. Obtained pasteurized in accordance with applicable laws.	X	590.004(D)
3-3	Protection From Contamination After Receiving		
3-4	Destruction of Organisms of Public Health Concern		
3-5	Limitation of Growth of Organisms of Public Health Concern		
3-301.11(B)*	Bare Hand Contact with RTE Food. No bare hand contact permitted unless in compliance with the Department's alternative procedure. Latex gloves not recommended.	X	590.004(E)
3-501.16(C)(2)*	Potentially Hazardous Food, Hot and Cold Holding In-use food preparation line refrigeration equipment must be upgraded to maintain PHFs at 41°F within 10 years.	X	590.004(F)
3-501.17	Ready-to-eat, Potentially Hazardous Food, Date Marking* Stricken.	X	590.004(G)
3-501.18	Ready-to-eat, Potentially Hazardous Food, Disposition* Stricken.		
3-501.19*	Time as a Public Health Control. Modified to require a variance from the Board of Health.	X	590.004(H)

3-6	Food Identity, Presentation, and On-Premises Labeling	Deletion	Addition
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* Denotes critical item

3-601.11	Standards of Identity. Packaged food shall comply with all applicable laws for standards of identity.	X	590.004(I)
3-602.11(B)(2)*	Labeling of Ingredients. List of ingredients accurate.		590.004(J)
3-603.11	Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens. FC 3-603.11 will be implemented 01/01/2001.		590.004(K)
3-7	Contaminated Food		
3-8	Special Requirements for Highly Susceptible Populations		

590.005 Equipment, Utensils and Linen

Chapter 4	Equipment, Utensils, and Linens	Deletion	Addition
4-1	Materials for Construction and Repair		
4-2	Design and Construction		
4-3	Numbers and Capacities		
4-4	Location and Installation		
4-5	Maintenance and Operation		
4-6	Cleaning of Equipment and Utensils		
4-7	Sanitization of Equipment and Utensils		
4-8	Laundrying		
4-9	Protection of Clean Items		

590.006 Water, Plumbing and Waste

Chapter 5	Water, Plumbing, and Waste	Deletion	Addition
5-1	Water, Plumbing and Waste		
5-101.13*	Bottled Drinking Water. Modified to reference Massachusetts regulations 105 CMR 570.000 The Manufacture, Collection, and Bottling of Water and Carbonated Nonalcoholic Beverages.	X	590.006(A)
5-102.11*	Standards. Modified to reference Massachusetts Department of Environmental Protection 310 CMR 22.00 Drinking Water Regulations.	X	590.006(B)
5-2	Plumbing System		
5-3	Mobile Water Tank and Mobile Food Establishment Water Tank		
5-4	Sewage, Other Liquid Waste, and Rainwater		
5-5	Refuse, Recyclables, and Returnables		

590.007 Physical Facilities

Chapter 6	Physical Facilities	Deletion	Addition
6-1	Materials for Construction and Repair		
6-2	Design, Construction, and Installation		
6-3	Numbers and Capacities		
6-4	Location and Placement		
6-5	Maintenance and Operation		

590.008 Poisonous or Toxic Materials

Chapter 7	Poisonous or Toxic Materials	Deletion	Addition
7-1	Labeling and Identification		
7-2	Operational Supplies and Applications		
7-3	Stock and Retail Sale		

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590.009 Special Requirements

	Special Requirements	Deletion	Addition
	Caterers. 590.033 requirements added.		590.009(A)
	Mobile Food Operations. 590.029 requirements modified and added.		590.009(B)
	Temporary Food Establishments. 590.030 requirements modified and added.		590.009(C)
	Residential Kitchen Operations. 590.034 requirements added.		590.009(D)
	Residential Kitchen Operations for Retail Sale. 590.028 requirements added. Foods limited to non-PHF's, and foods, which do not require refrigeration or variance in accordance with 590.010(H)..		590.009(D) (2)
	Anti-Choking Procedures in Food Service Establishments. 590.001(C) requirement added.		590.009(E)
	Tobacco Products: Notice and Sale. 590.001(D) requirements added.		590.009(F)

Administration and Enforcement

590.010 Code Applicability

Chapter 8	Compliance and Enforcement		
8-1	Code Applicability	Deletion	Addition
8-1 – 8-5	Scope. 8-1 – 8-5 and 590.000 in lieu of 105 CMR 400.000: The State Sanitary Code – 590.051(A) <i>Scope-</i> added.		590.010(A)
	Local Enforcement. BOH may enforce these regulations in same manner local rules and regulations are enforced – 590.051(B) <i>Local Enforcement</i> added.		590.010(B)
	Food Establishments Outside Jurisdiction of Board of Health. 590.057 added.		590.010(C)
	State Enforcement. State authority to enforce 590.000. 590.051(C) added.		590.010(D)
	Interpretation of Regulations. State may issue interpretations. 590.051(D) - added.		590.010(E)
	Reporting Requirements for Local Boards of Health. 590.051(E) added.		590.010 (F)
	Inspector Training – Minimum requirements for conducting inspections added.		590.010(G)
8-103.10	Variiances. Copies of all variances provided to the Department upon request. - 590.061(A) added.		590.010(H)(1)
8-103.10	Documentation of Proposed Variance and Justification. 590.061(B) Expiration, Modification and Suspension of variances added.		590.010(H)(2)

590.011 Plan Submission and Approval

8-2	Plan Submission and Approval	Deletion	Addition
8-201	Plan Approval or Disapproval. Board of Health has 30 days to approve plans - 590.058(B) <i>Review of Plans</i> modified and added.		590.011

590.012 Permit to Operate

8-3	Permit to Operate	Deletion	Addition
8-301.11	Mobile food operations. Must obtain permit in each jurisdiction, which they operate. 590.052(A)(1)- <i>Permit Required to Operate</i> added.		590.012(A)
8-302.12	Application Form, Approved. Modified to include application form provided by the Board of Health to be approved by the Department. 590.052(B) added.	X	590.012(B)
8-3	Permit Form. One permit form with information required - 590.052(C) <i>Permit</i> added.		590.012 (C)
	Temporary Food Establishment Permits. Limited to 14 days. Permit shall state dates, location and any restrictions. 590.052(H) added.		590.012 (D)

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		Deletion	Addition
	Mobile Food Operation. Permits for mobile food operations shall state dates, location and any restrictions. 590.052(I) added.		590.012(E)
	Copies of Permits. 590.052(F) added.		590.012(F)
	Expiration and Renewal of Permit. Permit expiration 1 year. Renewal prior to 30 days of expiration date. 590.052(D) added.		590.012(G)
8-303.20	Conditions for Issuance. Inspection conducted within previous 6 months for renewals. 590.052(E) added.	X	590.012(H)(1)
	Refusal to Issue a License. Grounds and notice for refusal added.		590.012(H)(2)
8-304.10	Responsibilities of the Regulatory Authority. Modified to provide the permit holder information on how to obtain a copy of the Code.	X	590.012(I)
	Notification of Changes. Notify Board of Health within 48 hours after any change in ownership, and 30 days prior to any change in name or location in writing - <i>Changes in Ownership, Name or Location</i> 590.052(G)(1) added.		590.012(J)

590.013 Inspection and Correction of Violations

		Deletion	Addition
8-4	Inspection and Correction of Violations		
8-401.10(B)(2)	Risk-based Inspection Schedule. Modified to be approved by the Department.	X	590.013(A)
	Frequency of Inspections: Bed and Breakfasts. (1x yr). Inspection for bed and breakfasts homes and establishments – 590.053(A)(2) added.		590.013(B)
	Frequency of Inspections: Vending Machine Operations. Determined by the Department.		590.013(C)
8-402.11	Allowed at Reasonable Times. Inspections may be conducted at any reasonable time.	X	590.013(D)
8-403.10 8-403.20	Documenting Information and Observations. Prototype form provided by the Department. 590.053(B)(3) added. Form shall summarize the requirements of 590.000. 590.053(B)(1) added. Inspection report form shall constitute an order for correction or an order may be sent separately after the inspection. Types of violations to be documented modified to include non-critical violations.	X	590.013(E)
8-405	Food Safety Training. Board of health may order additional training if violations relating to risk factors and Food Code interventions are repeated.		590.013(F)
8-403.50	Public Information. Modified to include Massachusetts laws.	X	590.013(G)
	Record Retention. Inspection reports and related documents to be retained for a minimum of 5 years.		590.013(H)
8-406.11	Correction of Violations: Temporary Food Establishments. In the case of temporary food establishments, all violations shall be corrected within a maximum of 24 hours. If violations are not corrected within the time specified, the board of health or its agent shall order the establishment immediately to cease food operations. 590.055(A)(3)(d) added.		590.013(I)

590.014 Permits: Suspension and Revocation

		Deletion	Addition
	Permits: Suspension and Revocation		
	Summary Suspension of Permit/Emergency Closure without a Prior Hearing		590.014(A)
	Suspension of a Permit with Notice		590.014(B)
	Revocation of a Permit with Notice		590.014(C)

590.015 Service of Orders/Hearings

		Deletion	Addition
	Service of Orders/Hearings		
	Service of Orders		590.015(A)
	Hearings		590.015(B)

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590.016 Examination and Embargo of Food

	Examination and Embargo of Food	Deletion	Addition
	<i>Examination and Sampling.</i>		590.016(A)
	<i>Embargo Notice.</i>		590.016(B)
	<i>Embargo Tag.</i>		590.016(C)
	<i>Storage or Destruction of Embargoed Food.</i>		590.016(D)
	<i>Condemnation, Disposal or Reconditioning</i>		590.016(E)
	<i>Embargo release.</i>		590.016(F)

590.017 Prevention of Foodborne Disease Transmission by Employees

8-5	Prevention of Foodborne Disease Transmission By Employees	Deletion	Addition
8-501.10 8-501.20	<i>Department Notification/Investigation and Control.</i> Suspect and confirmed foodborne outbreak reported to the Department. 590.060(A)(2-3) added. Actions required by 300.000 added.		590.017(A)
8-501.40	<i>Release of Foodborne Disease Transmission by Employees.</i> Rewritten to resolve conflicts with 300.000.	X	590.017(B)
8-501.40(A)(3)	S. Typhi – negative on at least 3 consecutive stools taken no less than 48 hours apart.	X	590.017(B)(1)
8-501.40(C)(2)	<i>Shigella, E. coli</i> O157:H7 - negative on at least 2 consecutive stools taken at least 48 hours apart. 590.017(C) shall supercede 300.	X	590.017(B)(3)

590.018 Vending Machines

	Vending Machines	Deletion	Addition
	<i>License.</i>		590.018(A)
	<i>License: Application.</i>		590.018(B)
	<i>License: Issuance, Inspection Fees.</i>		590.018(C)
	<i>License: Display of Operator's License Number.</i>		590.018(D)
	<i>Operator's List of Vending Machine Locations and Preparation Areas.</i>		590.018(E)
	<i>Inspection of Vending Machines, Premises and Preparation Areas.</i>		590.018(F)
	<i>Food Establishments Outside the Commonwealth Servicing Vending Machines within the Commonwealth.</i>		590.018(G)
	<i>Enforcement.</i>		590.018(H)

590.019 Criminal Penalties

	Criminal Penalties	Deletion	Addition
	<i>Violation of 590.000 Provisions.</i> 590.062(A) – added.		590.019(A)
	<i>Failure to Comply with Orders.</i> Pursuant to 590.000 provisions. 590.062(B) - added.		590.019(B)

590.020 Advisory Committee

	Advisory Committee	Deletion	Addition
	<i>Advisory Committee.</i> 590.063 – added.		590.020

590.021 Severability

	Severability		
	<i>Severability.</i> 590.064 – added.		590.021

Regulatory Authority

105 CMR 590.000: M.G.L. c. 94, §§. 305A, 305B, 146 and 189 A; M.G.L. c. 111, §§. 5 and 127A

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